

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his)
capacity as ATTORNEY GENERAL)
OF THE STATE OF OKLAHOMA and)
OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TOLBERT,))
in his capacity as the)
TRUSTEE FOR NATURAL RESOURCES)
FOR THE STATE OF OKLAHOMA,)

Plaintiff,)

vs.)

4:05-CV-00329-TCK-SAJ

TYSON FOODS, INC., et al,)

Defendants.)

THE VIDEOTAPED DEPOSITION OF
ROBERT TAYLOR, PhD, produced as a witness on
behalf of the Defendants in the above styled and
numbered cause, taken on the 8th day of January,
2008, in the City of Tulsa, County of Tulsa, State
of Oklahoma, before me, Lisa A. Steinmeyer, a
Certified Shorthand Reporter, duly certified under
and by virtue of the laws of the State of Oklahoma.

1 of vertical integration.

2 Q I'm going to stop harping on your

3 Congressional testimony here in just a second.

4 There was one last thing you said that caught my

5 attention and it was -- you stated that some global

02:47PM

6 agribusiness firms now have economic and political

7 power exceeding that of many governments. Do you

8 believe there's some sort of a conspiracy out there

9 in the world involving corporations?

10 A I don't have any evidence of a conspiracy.

02:48PM

11 The basis for that statement, and I don't recall the

12 exact source, but these have floated around, and

13 just listing the different governments and

14 businesses of the world, the top hundred in terms of

15 what amounts to a GDP, and out of the top hundred,

02:48PM

16 over 50 are corporations. That was the only point.

17 Q Okay. You published an article where you

18 stated that giant agribusiness corporations make

19 huge campaign contributions to politicians and that

20 these contributions threaten American democracy.

02:48PM

21 Does that sound correct?

22 A Yes.

23 Q Do you believe that Cargill is a giant

24 agribusiness corporation?

25 A Yes.

02:48PM

1 Q Tyson?

2 A Yes.

3 Q Simmons Foods?

4 MR. ELROD: No.

5 A No. Cargill and Tyson, yes. 02:49PM

6 Q So somewhere in there you draw a line?

7 A Yes.

8 Q Do you believe that Cargill is a threat to
9 democracy?

10 A Cargill itself, I have no reason to suspect 02:49PM
11 that.

12 Q Do you believe that Tyson is a threat to
13 democracy?

14 A Well, they've been convicted of bribing the
15 secretary of agriculture, but aside from that, I 02:49PM
16 don't see that they're a threat to democracy.

17 Q Sounds like democracy is working pretty good.
18 True or false: The American economic systems seems
19 to be slithering towards fascism?

20 A And I said that, and I'm going by the textbook 02:49PM
21 economic definition of fascism, fascism, and not
22 political definition, and it simply means the
23 corporate control of government, and I did say and
24 do mean that we're moving in that direction.

25 Q It's true since at least the early 1990's, 02:50PM

1 you've seen yourself as an advocate for poultry
2 growers; is that right?

3 A I don't consider myself an advocate of
4 anything other than competitive markets in a balance
5 of market power, and that can go either way.

02:50PM

6 Recently it has gone, in my opinion, to favor the
7 integrators over the growers, but it could easily
8 swing the other way, as it has at times past with
9 labor unions and so forth.

10 Q Do you believe that since the early 1990's
11 that contract poultry growers have needed advocates?

02:50PM

12 A I've never even thought about it that way.

13 Q Just trying to determine if your beliefs now
14 are consistent with testimony you gave in a
15 deposition last year where you mentioned that you
16 saw yourself as an advocate for a poultry --
17 contract poultry growers, and if you don't now, I
18 wondered if something had changed.

02:51PM

19 A Again, if I advocate anything, it is a balance
20 of power in markets, cash markets, contracting or
21 whatever. Economic -- basic economic theory
22 indicates that when that balance of power gets out
23 of whack either way, then one side loses and the
24 other side gains. So to the extent that my analysis
25 of contract poultry growers in the last ten years or

02:51PM

02:52PM

1 so shows that they're not making a competitive
2 return for labor and capital and management and
3 risk, then, yes, I'm speaking out on their behalf,
4 but the roles could be reversed and I would change
5 over.

02:52PM

6 Q I look forward to seeing that. If you're not
7 an advocate for poultry growers, I take it you're
8 not an advocate against poultry companies?

9 A No.

10 Q But you're no fan of Cargill, are you?

02:52PM

11 A I don't -- I know very little --

12 MR. RIGGS: Object to the form.

13 A I know very little about Cargill. As you know
14 better than I do, it's the world's largest private
15 corporation and not much is known about it, and I
16 have nothing against the vertically integrated model
17 of poultry production other than the fact that
18 there's a disparity in bargaining power.

02:52PM

19 Q Do you recall your testimony about six months
20 ago in the Schauer case? Am I pronouncing that
21 correctly, Schauer?

02:53PM

22 A I think so.

23 Q That's the case where the defendant is
24 Cargill; correct?

25 A The turkey -- the Gonzales Turkey, yes.

02:53PM

1 Q Yes, it is. You issued an expert report in
2 that case not quite a year ago, and in that report
3 I'll quote what you wrote. It is also my opinion
4 that the growers and brooders should be entitled to
5 recover significant punitive damages against
6 Cargill. By the term significant, I mean that the
7 punitive damages should be of such an amount that
8 would deter a company of Cargill's huge financial
9 resources from engaging in this type of malicious
10 and exploitative conduct in the future.

02:53PM

02:54PM

11 A That is a case where they terminated all
12 growers, and as I explained if not there, in other
13 documents, I believe that some level of punitive
14 damage when they're found guilty is necessary to
15 deter that kind of behavior, and it's akin to the
16 reasoning underlying treble damages in antitrust.
17 You have to get a hurdle up to prevent undesirable
18 behavior. If it's for actual damages only, then
19 there's only some probability they'll get caught,
20 and so that won't be an effective deterrent.

02:54PM

02:54PM

21 Q So, you know, outside your opinions as far as
22 legal theory, it seems you have it in mind that with
23 respect to the poultry growers, contract poultry
24 growers --

25 A Uh-huh.

02:55PM

1 Q -- that Cargill engages in malicious and
2 exploitive conduct?

3 A In that particular instance by getting growers
4 to install foggers, which they paid part of the cost
5 of, and others did serious upgrades of houses, and 02:55PM
6 then they were terminated. All of them were
7 terminated a year later. So in that particular
8 case, I agree with that, but that is not a generic
9 statement I would apply to the whole poultry
10 industry. 02:55PM

11 Q Would you apply it to Cargill anywhere else
12 outside of the facts of that particular case?

13 A Not with anything I have available to me.

14 Q Nothing you've seen to date?

15 A Nothing I have seen today. 02:56PM

16 Q Nothing you've been provided in those two big
17 boxes of documents that were provided to you by
18 counsel?

19 A No.

20 MR. TUCKER: Let's go ahead and change the 02:56PM
21 tape out.

22 VIDEOGRAPHER: We're now off the Record.
23 The time is now 3:56 p.m. (sic)

24 (Following a short recess at 2:56 p.m.,
25 proceedings continued on the Record at 3:05 p.m.) 03:05PM

1 VIDEOGRAPHER: We are back on the Record.

2 The time is 3:05 p.m.

3 Q Now we're getting into the part, Doctor, where

4 I was somewhat competent and I actually brought more

5 than half a copy or one copy of a document so I

03:05PM

6 thought -- I hope I can help you a little bit with

7 that. I'll try to pass them over to you to refer to

8 them to help jog your memory as to what I'm talking

9 about. In this article I've passed out to you,

10 Restoring Economic Health to Contract Poultry

03:06PM

11 Production, that you authored, you characterize

12 poultry growers as, quote, serfs with a mortgage.

13 What is a serf?

14 A Fully this is a phrase the law professor, Neil

15 Harle started using. This basically means they're

03:06PM

16 completely at the mercy, not completely but close to

17 it, at the mercy of the integrator, and they do have

18 mortgages at the bank.

19 Q I believe in that article you equate every

20 contract grower who enters into a contract with a

03:06PM

21 poultry company as a servant of that company; is

22 that right?

23 A In a sense.

24 Q You do use the word servant.

25 A Okay.

03:06PM

1 Q Is that your position in the context of your
2 affidavit as well?

3 A In large part they are.

4 Q You've argued for restoring the economic
5 health of poultry production. Now, what do you mean
6 by restoring it; is that the balance you've
7 discussed today?

03:07PM

8 A That is the balance and as I -- the farm
9 management specialists, who have worked with the
10 poultry industry, noted a decline in the true
11 economic return to contract production beginning in
12 the early to mid 1990's, and I report the Alabama
13 farm business records, which I have nothing to do
14 with. I report some of them here and argue that for
15 growers to have a competitive return on all of the
16 factors that they bring to the deal, they need
17 slightly higher pay.

03:07PM

18 Q I mean that's not the only thing that you
19 believe is needed to restore this balance, is it?
20 In reviewing your article, I know that you seemed to
21 identify at least three things that needed to change
22 to accomplish that goal.

03:08PM

23 A What are those three things?

24 Q I believe you've got them there on Page 6 of
25 that article. First you say that the imbalance of

03:08PM

03:08PM

1 economic power is due to the government for failure
2 to enforce antitrust legislation, which would cause
3 me to ask, do you have a belief as to why antitrust
4 legislation has not been enforced?

5 A I do not have a simple or even any explanation 03:08PM
6 for it. The point here is that antitrust laws came
7 on the books roughly a hundred years ago with real
8 broad social intent, and over time that's gotten
9 narrower and narrower down to economic efficiency
10 narrowly defined. 03:09PM

11 Q Well, I'll make another suggestion, going
12 through your writings, as to why you believe
13 antitrust legislation has not been enforced the way
14 you'd like to see it. In your article, Invisible
15 Hands, you wrote, quote, one cannot help but wonder 03:09PM
16 if these checks and balances are being compromised
17 or lost due to the buying of politicians and the
18 judiciary by corporations and the rich. I take it
19 you were referring there to giant agribusiness
20 corporations we talked about, like Cargill, and huge 03:09PM
21 campaign contributions to politicians?

22 A Not specifically Cargill, but the whole
23 corporate influence and lobbying effort that has
24 increased dramatically in the last ten or fifteen
25 years is of concern. 03:10PM

1 Q So it's not your opinion that Cargill has made
2 contributions to politicians or the judiciary that
3 would cause lack of enforcement of the federal
4 antitrust laws?

5 A I have no evidence of that. I know -- well, I 03:10PM
6 think Cargill has made campaign contributions. That
7 can be tracked on various websites, and I've seen
8 agribusiness numbers, just agribusiness category
9 reported that's a pretty big number, but it's the
10 generic effect. 03:10PM

11 Q Do you believe agribusinesses have made
12 contributions to the Oklahoma Attorney General to
13 persuade him to not enforce antitrust laws?

14 A I have no idea.

15 Q Just trying to get a sense of the extent how 03:10PM
16 of pervasive you believe that agribusiness is.

17 A My comments were in the context of U.S.
18 Department of Justice and USDA GIPSA and not
19 reference to any state antitrust laws, if those
20 exist or where those exist. I'm not familiar with 03:11PM
21 any of the state ones other than limited familiarity
22 with Texas antitrust law.

23 Q Do you believe that agribusiness has caused
24 USDA to fail to act in ways that you believe it
25 should to protect businesses such as contract 03:11PM

1 growers?

2 A There's a pretty strong feeling in the ag
3 community that that is the case.

4 Q Is that your belief?

5 A From what I have seen, there is a definite 03:11PM
6 influence that the top three -- you know, in the two
7 or three levels of USDA.

8 Q And what influence do you see?

9 A It's just a general influence that USDA tends
10 to side with giant agribusiness, things like country 03:12PM
11 of origin label, COOL labeling and other related
12 issues.

13 Q So I could add USDA to the corner with
14 antitrust enforcement, textbook authors, agronomic
15 economists and business schools as being folks who 03:12PM
16 don't understand how to apply economic policy in the
17 context of I guess society?

18 MR. RIGGS: Object to the form.

19 Q Is that right?

20 A I'm not making that reference with regard to 03:13PM
21 economists in general in USDA. They're generally
22 not in the top two or three levels, and there's
23 certainly some highly competent economists in the
24 economic research service of USDA.

25 Q And your article, Establishing Fairness in 03:13PM

1 Contract Poultry Production, a quote where you
2 wrote, USDA, which collects and reports innumerable
3 statistics --

4 A Wait, wait. I don't think that's the right
5 article.

03:13PM

6 Q Establishing --

7 A Okay.

8 Q The fifth paragraph.

9 A Uh-huh.

10 Q USDA, which collects and reports innumerable
11 statistics, including daily prices for many
12 commodities, has rarely reported even the most basic
13 economic information important to broiler producers.

03:14PM

14 They don't even report a single number showing
15 average annual of pay for contract growers. Wonder
16 why?

03:14PM

17 A That's a true statement.

18 Q If there are no economists in the top two or
19 three levels at USDA, then surely they could be
20 reporting these numbers if they wanted to?

03:14PM

21 A USDA reports morning and afternoon cattle and
22 hog prices for even local markets, and there's
23 nothing on pay for contract growers. That's my
24 point.

25 Q Getting back to your article on Restoring

03:14PM

1 Economic Health where I mentioned there were a few
2 things you saw that needed to change to restore the
3 balance you talked about today --

4 A Uh-huh.

5 Q -- you also blame a lack of transparency in 03:15PM
6 contracting for harming the economic health of
7 poultry production, and I believe you talked about
8 that sentence this morning, that the transparency
9 you wanted to see was transparency in contracts; do
10 I have that right? 03:15PM

11 A We can have a balance of power and
12 transparency in a cash market or in a market for
13 contracts, and either one of those can go either
14 way. I do not have a problem with contract
15 agriculture if there is a balance of power in the 03:15PM
16 contracting process, especially when contracts are
17 changed, base pay changed, specifications changed,
18 requirements of grower -- for growers changed.
19 That's all done at the initiation of the integrator,
20 which is not a balance of power, and that concerns 03:16PM
21 me.

22 Q Would you advocate making those contracts
23 public so that potential growers could review them
24 to determine if they thought this was a business
25 they wanted to get into? 03:16PM

1 A That would certainly help.

2 Q Would you advocate it?

3 A Yes.

4 Q And what about making them public so that
5 growers could consider moving from one company to
6 another; is that another reason you would want to
7 make them public?

03:16PM

8 A Yes.

9 Q Would you ask Congress to pass a law requiring
10 that?

03:16PM

11 A I don't know that legislation is required for
12 that. That seems to get down to what you lawyers
13 call a bright line, and Congress doesn't generally
14 do bright lines, but there are other ways that that
15 could be achieved.

03:16PM

16 Q As far as these transparent contracts, what
17 about for cattle; would that restore balance in that
18 industry as well?

19 A The body of economic literature that applies
20 is called asymmetric information, and for markets to
21 be efficient and truly competitive, you have to have
22 a balance of information and not asymmetric
23 information, and this is a case of asymmetric
24 information where the integrators have much more
25 information than do the growers.

03:17PM

03:17PM

1 Q Is that the same case with cattle?

2 A It's different, but there is asymmetric
3 information favoring the packer buyer over the
4 cattlemen.

5 Q And I take it under your theories, increasing 03:17PM
6 transparency by publicizing contracts could reduce
7 that inequality that you see?

8 A Yes.

9 Q Same true with swine?

10 A Congress has required past legislation that 03:18PM
11 requires some kind of posting of swine contracts, I
12 don't know all the details, but to try to increase
13 transparency for swine.

14 Q So you would have to acknowledge that
15 transparency can be accomplished through 03:18PM
16 legislation?

17 A It can be but normally Congress doesn't get
18 involved in --

19 Q Well, they got involved in swine. It's a hop,
20 skip and a species over to cattle or poultry? 03:18PM

21 A Yeah.

22 Q I'm just wondering how far to take that.
23 Would the same be true with pro football players; if
24 all their contracts were posted publicly for
25 everyone to see, would there be a better market for 03:18PM

1 pro football players?

2 A That's a completely different kind of market
3 that I don't want to get into.

4 Q What about Wal-Mart? I've read a quote of
5 yours where you again quote that -- by Mr. Pinto and 03:19PM
6 Hildred say that, quote, Wal-Mart is often held up
7 as the model for successful supply chain management
8 but that is -- that in some instances, Wal-Mart's
9 behavior in purchasing from smaller suppliers
10 approaches the dictatorial? 03:19PM

11 A At the time I agreed with that. I understand
12 that that has changed somewhat in recent years.

13 Q Getting back to your Restoring Economic Health
14 article, another one of the things you'd like to
15 change to restore balance is to address what you 03:19PM
16 call deceptive features in poultry contracts. Do
17 you think Congress should pass a law telling
18 contract poultry growers what kinds of contracts
19 they can and can't sign?

20 A That would be a possibility, but it should be 03:20PM
21 just in very broad terms.

22 Q In that Establishing Fairness article -- well,
23 actually earlier today you testified that poultry
24 growers don't have all the information they need to
25 make a fully informed decision on whether they want 03:20PM

1 to be a poultry farmer; is that right?

2 A Correct.

3 Q Okay, and I think you fleshed that out in that

4 Establishing Fairness article. You said, quote, the

5 lack of objective public information on grower pay 03:20PM

6 and financial risk means that some uninformed,

7 gullible or overly optimistic individuals can be

8 lured into becoming contract growers.

9 A Yes.

10 Q The term you used to describe these people is 03:20PM

11 bubbas, isn't it?

12 A No, I didn't use that. Somebody else did.

13 Q You've adopted the term?

14 A I adopted that, yes.

15 Q I think when you were talking about bubba, 03:21PM

16 it's your Invisible Hand article. Quote, bubba only

17 need to look at income statistics for the upper 5 to

18 10 percent compared to the lower 40 percent to see

19 what is happening in America. The powerful

20 masquerading behind the invisible hand first picked 03:21PM

21 bubba's pockets. Now the hand has been clinched

22 into a corporate fist and bubba's way of life is

23 threatened whether he knows it or not. As I

24 understand your theory here, agricultural companies

25 abuse the free market to put bubba in jeopardy of 03:21PM

1 bankruptcy?

2 A As I mentioned earlier, the phrase free market
3 has many, many different meanings, and it can range
4 from one extreme where there are absolutely no
5 regulations at all, and when some people use free
6 market, that's what they mean. Others when they say
7 free market, they mean a truly competitive market
8 where there's a semblance of balance of power. So
9 when you ask a question with the free market phrase,
10 I don't know for sure what you mean.

03:22PM

03:22PM

11 Q Well, then I could ask it a different way. Is
12 it your position that those bubba poultry farmers
13 out there don't know what they're doing when they
14 enter into contracts to be contract growers and
15 somebody ought to stop them from doing it?

03:22PM

16 A I'm not saying they should be stopped from
17 doing it. They should go in with their eyes open
18 about the true economic return to contract poultry
19 production, and there's very little information on
20 that.

03:22PM

21 Q At the end of your Restoring Economic Health
22 article, you say that economic viability would be
23 restored to contract production if producers
24 received only one penny per pound more. I must have
25 missed it this morning. You probably mentioned at

03:23PM

1 some point what the average price per pound bird is
2 received by a poultry grower in the IRW.

3 A I don't think it was mentioned, but I have yet
4 to see Agri Stats for all of these companies.

5 Q Would you like to use the number we talked 03:23PM
6 about in the article?

7 A Five to six cents will work now.

8 Q Okay. So if it's five cents a pound --

9 A Uh-huh.

10 Q -- and you want a one cent increase, that's 03:23PM
11 about 20 percent. Would you lobby Congress to
12 impose a 20 percent tax on poultry to get a bonus to
13 poultry growers or something?

14 A I don't lobby Congress.

15 Q You just testify to Congress. I'm sorry. 03:24PM

16 A I testify. I do not engage in those other
17 activities.

18 Q But you are aware that you're asking for a 20
19 percent increase there, not just one cent?

20 A That is the upper limit. Yes, I'm aware of 03:24PM
21 that. It takes a half a penny to a penny added to
22 what those growers who have participated, the
23 poultry growers who have participated in the Alabama
24 farm business record system with accounting done
25 properly for management, not for tax purposes. It 03:24PM

1 takes that much before they get a competitive return
2 on their labor of 6 or 7 or \$8 an hour and a
3 competitive return on management and risk.

4 Q And you've got an opinion in this case as far
5 as how much a pound it would cost to transport all 03:24PM
6 litter out of the IRW?

7 A Yes.

8 Q And as I understand your affidavit, you'd like
9 to pass that cost on to consumers across the
10 country? 03:25PM

11 A Like to is not the appropriate word.

12 Q Propose, would that work?

13 A No.

14 Q Suggest?

15 A In competitive markets, well, and even in 03:25PM
16 non-competitive markets, cost increases are passed
17 on in part or in total to final consumers. That's a
18 reality. It's not something I wish but it's
19 reality.

20 Q You testified earlier today that those final 03:25PM
21 consumers you perceive being consumers in the
22 country, is that right, not just consumers, say, in
23 Tulsa County?

24 A Yes.

25 Q All right. Do you believe -- is it your 03:25PM

1 opinion that Oklahoma's Attorney General should be
2 setting the price of chicken at the grocery store at
3 markets across the country?

4 A No.

5 MR. TUCKER: That's all I have. Thank you. 03:26PM

6 DIRECT EXAMINATION

7 BY MR. BOND:

8 Q Dr. Taylor, my name is Michael Bond and I
9 represent Tyson Foods, Tyson Chicken, Tyson Poultry
10 and Cobb-Vantress in this case. We've been going 03:27PM
11 for a little while. If you want a break, let me
12 know. You don't have to wait for the tape change,
13 you know, if you need anything, but I'm going to
14 jump around a little bit. It's kind of part of
15 being in third or fourth or fifth position in these 03:27PM
16 types of things, but I do -- I want to start with
17 Paragraph 25 of your affidavit, which is Exhibit 1
18 in this deposition, and I don't entirely understand
19 the calculation but I think if I read back through
20 your testimony, I can probably pick most of it up. 03:27PM

21 A Okay.

22 Q I do want to make a few things clear. This
23 average of only one to two pennies per person per
24 year, that is a nationwide increase; right?

25 A I'll try to explain it again. I calculated a 03:28PM